

Agreed Form

Dated the [*] day of [*] 2016

**WINSWAY ENTERPRISES HOLDINGS LIMITED
(as issuer)**

DEED POLL
constituting the
US\$10,000,000 Contingent Value Rights in favour of the Rightsholders

THIS INSTRUMENT is executed by way of Deed Poll on the [*] day of [*] 2016 by **Winsway Enterprises Holdings Limited** (the “**Issuer**”) a company incorporated in the British Virgin Islands, having its registered office at Akara Building, 24 de Castro Street, Wickham Cay 1, Road Town, Tortola, British Virgin Islands, and its principal place of business in Hong Kong at Suites 2104-05, Hutchison House, 10 Harcourt Road, Hong Kong in favour of and for the benefit of each of the Rightsholders.

WHEREAS:

- (A) By a restructuring support agreement dated 25 November 2015 (the “**Restructuring Support Agreement**”) made between the Issuer, Subsidiary Guarantors (as defined in the Restructuring Support Agreement) and certain consenting Noteholders, and pursuant to the terms of the schemes of arrangement sanctioned by the BVI Court and the Hong Kong Court on [*] May 2016 and [*] May 2016 respectively (in each case as defined below) (the “**Schemes**”), the Issuer has agreed to issue and distribute to the Rightsholders, among other things, the Contingent Value Rights (as defined in the Schemes) (“**CVRs**”) in an aggregate principal amount of US\$10,000,000 on the Initial Distribution Date and the Final Distribution Date (in each case as defined in and in accordance with the Schemes).
- (B) The Issuer is entering into this Instrument by way of deed poll for the purpose of constituting and defining the rights and interests of the Rightsholders in respect of the CVRs in accordance with the Schemes and its obligations under the Restructuring Support Agreement.
- (C) This Deed is intended to take effect as a Deed Poll.

NOW THIS INSTRUMENT WITNESSES and the Issuer declares as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 **Adoption of defined terms:** Unless otherwise defined herein or in the Conditions, words and expressions defined in the Restructuring Support Agreement or the Schemes and not defined in the main body of this Instrument or the Conditions shall when used in this Instrument have the same meanings as are given to them in the Restructuring Support Agreement or the Schemes as applicable.

1.2 **Definitions:** In this Instrument, the following expressions shall have the meanings assigned:

“ Auditor ”	means the Issuer’s appointed auditors being KPMG;
“ Board ”	means the board of directors of the Issuer from time to time;
“ Certificate ”	means a certificate in the form or substantially the form set out in Schedule 1 hereto issued to a Rightsholder in accordance with this Instrument and the Conditions;
“ Conditions ”	the terms and conditions endorsed on the CVRs in definitive form as they may from time to time be modified in accordance with their provisions and/or the provisions of this Instrument, and reference in this Instrument to a particular numbered Condition shall be construed accordingly;
“ CVR Shares ”	means the Shares issued upon Settlement;

“Group”	has the meaning given to it in the Conditions;
“IFRS”	means International Financial Reporting Standards;
“Instrument”	means this instrument, the schedules (as from time to time altered in accordance with the terms of this instrument) and any other document executed in accordance with this instrument (each as from time to time so altered) and expressed to be supplemental to this instrument;
“Issuer”	has the meaning ascribed to it in the preamble of this Instrument;
“Merger”	has the meaning given to it in Clause 7.1(3);
“Non-cash costs”	means the sum of “Depreciation”, “Amortization”, and “Equity settled share-based transactions” reported in the consolidated cash flow statement of the annual audited financial statements of the Issuer
“Profit before Taxation”	shall be the “Profit before Taxation” figure reported in the consolidated statement of profit or loss of the annual audited financial statements of the Issuer and shall exclude any extraordinary gains and losses (including foreign exchange gains and losses and fair value changes of derivative financial instruments) and write downs and impairments outside the normal course of business operations of the Issuer;
“Reporting Year”	means the period between 1 January and 31 December;
“Restructuring Support Agreement”	has the meaning ascribed to it under the recitals of this Instrument;
“Rightsholders”	means those holders of Notes who are eligible to receive the CVRs under the terms of the Schemes (and each of their successors and assigns) and their designees;
“Settlement”	means the settlement of the CVRs upon the Triggering Event in the form of cash or Shares;
“Shares”	means the ordinary shares of the Issuer;
“Subscriber”	has the meaning ascribed to it under the recitals of this Instrument;

“Triggering Event” means at any time after the date of this Instrument but on or before the Maturity Date the Issuer’s actual or deemed cash profit before taxation, being the sum of the “Profit before Taxation” and “Non-cash costs” in any given Reporting Year as published on the relevant annual audited financial statements of the Company exceeds US\$100 million (for the avoidance of doubt, if the Maturity Date occurs before the end of the Reporting Year for 2021, a Triggering Event shall occur if the Issuer’s actual or deemed cash profits before taxation exceeds US\$100 million during the period between 1 January 2021 and the Maturity Date).

1.3 **Construction of certain references:** Unless the context otherwise requires:

- (a) words in the singular include the plural, and vice versa;
- (b) words importing either gender or the neuter include both genders and the neuter; and
- (c) a reference to a person includes a reference to a body corporate and to an unincorporated body of persons.

1.4 **Headings:** Headings shall be ignored in construing this Instrument.

1.5 **Schedules:** The Schedules are part of this Instrument and shall have effect accordingly.

1.6 **Enforceability:** If at any time any provision of this Instrument is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Instrument nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

2. THIS DEED POLL AND ISSUE OF THE CVRs

2.1 The Issuer shall upon its execution of this Instrument promptly issue and distribute the CVRs to the Rightsholders as at such date in accordance with the terms of the Schemes and this Instrument.

2.2 All of the obligations and undertakings entered into or given under this Instrument and/or the Conditions are made, created and/or entered into in favour of and for the benefit of each of the Rightsholders from time to time.

2.3 The CVRs are governed by this Instrument and the Conditions which shall be binding on the Issuer and the Rightsholders. The Rightsholders shall be entitled to enforce the obligations of the Issuer under the CVRs and the Conditions as if the same were set out and contained in this Instrument which shall be read and construed as one document with the CVRs.

3. AMOUNT OF THE CVRs AND COVENANT TO PAY

3.1 **Amount of the CVRs:** The aggregate principal amount of the CVRs is limited to US\$10,000,000.

3.2 **Covenant to pay:** The Issuer hereby irrevocably undertakes and covenants to each of the Rightsholders that it shall, upon the occurrence of the Triggering Event in accordance with the

Conditions, effect Settlement on the Settlement Date.

- 3.3 **Discharge:** Any Settlement to be made in respect of the CVRs by the Issuer shall be made as provided in and in accordance with the Conditions and any Settlement so made shall to such extent be a good discharge to the Issuer.

4. FORM AND DENOMINATION OF THE CVRS

- 4.1 **The Certificates:** Upon issue of the CVRs, each Rightsholder shall be entitled to receive a definitive Certificate in or substantially in the form set out in Schedule 1 and endorsed with the Conditions in, or substantially in the form also set out in, that Schedule.

- 4.2 **Denomination:** The CVRs shall be denominated in United States dollars.

- 4.3 **Signature:** The definitive Certificates shall be signed manually or in facsimile by two Directors of the Issuer or one Director and the Secretary of the Issuer duly authorised by the Board. If authorised by the Board, the Issuer may use the facsimile signature of any person who at the date of this Instrument is a Director of the Issuer even if at the time of issue of any Certificate he no longer holds such office and the CVRs in respect of which a Certificate is so executed shall be binding and valid obligations of the Issuer.

- 4.3 **Issue:** Issue and delivery of the CVRs shall be completed by the issue and delivery of the Certificates to the Rightsholder (or its nominated representative or designee) by, or by the order of, the Issuer and by the Register of Rightsholders being updated to record the name, address of the Rightsholder and the Certificate numbers held by such Rightsholder by or on behalf of the Issuer.

- 4.4 **Entitlement to treat Rightsholder as owner:** Each of the Rightsholders shall (save as otherwise required by law) be treated as the absolute owner of the CVR for all purposes (regardless of any notice of ownership, trust or any interest in it or any writing on or the theft or loss of the Certificate issued in respect of it) and no person shall be liable for so treating the Rightsholder or any entry on the Register of Rightsholders.

5. CAPITAL DUTIES AND TAXES

- 5.1 **Capital duties etc:** The Issuer will pay any and all stamp, issue, registration, documentary, or other taxes, duties and/or fees payable in the British Virgin Islands or Hong Kong or any other jurisdiction in respect of the creation and issue of the CVRs and the execution or delivery of each Certificate and pay any and all taxes, capital, stamp duty and/or registration duties and/or fees in Hong Kong or British Virgin Islands or any other jurisdiction arising from Settlement and the issue and delivery of any Shares in respect of such Settlement.

6. REPRESENTATIONS AND WARRANTIES

6.1 The Issuer makes the representations and warranties set out in this Clause 6 on the date of this Agreement to and for the benefit of each of the Rightsholders.

(1) Status

It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

(2) Binding obligations

The obligations expressed to be assumed by it in this Instrument and the Conditions are legal, valid, binding and enforceable obligations.

(3) Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Instrument and the Conditions do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it.

(4) Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Instrument and the Conditions to which it is a party and the transactions contemplated by this Instrument and the Conditions.

(5) Validity and admissibility in evidence

All authorisations and any other acts, conditions or things required or desirable:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Instrument and the Conditions; and
- (ii) to make this Instrument and the Conditions admissible in evidence in its jurisdiction of incorporation,

have been obtained, effected, done, fulfilled or performed and are in full force and effect.

(6) Governing law and enforcement

- (a) The choice of the law stated to be the governing law of this Instrument and the Conditions will be recognised and enforced in its jurisdiction of incorporation.

(b) Any judgment obtained in relation to this Instrument and the Conditions in the jurisdiction of the stated governing law of this Instrument and the Conditions will be recognised and enforced in its jurisdiction of incorporation.

(7) **Insolvency**

No steps have been taken by the Issuer or, so far as the Issuer is aware, any other person with a view to effect the dissolution, liquidation or winding up of the Issuer or any Group Company without the prior written consent of a Special Resolution of Rightsholders.

(8) **No filing or stamp taxes**

Under the law of its jurisdiction of incorporation it is not necessary that this Instrument and/or the Conditions be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Instrument and the Conditions or the transactions contemplated by this Instrument and the Conditions.

(9) **No default or event causing Material Adverse Effect**

No event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries) assets are subject which might have a Material Adverse Effect.

(10) **Financial reporting**

The Issuer has complied with the financial reporting requirements (including without limitation the publication of its annual audited financial statements) under all applicable laws, regulations and the Listing Rules, including but not limited to publication of its financial results in a timely manner as required under the Listing Rules and the preparation of its financial statements in accordance with IFRS consistently applied and the Issuer shall not change its Reporting Year for its annual audited financial statements.

(11) **Accounting**

The Issuer has not changed its method of accounting and, in particular, the Issuer has not changed the method or basis of calculating its “Profit Before Taxation” or “Non-cash costs”.

(12) **Auditor**

The Issuer has not changed or permitted the change of its Auditor to a firm other than a well-recognised and suitably qualified international accounting firm without the prior written consent of a Special Resolution of Rightsholders.

(13) **Pari passu ranking**

Its payment obligations under this Instrument and the Conditions rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

(14) **No immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to this Instrument and the Conditions to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

6.2 Repetition

Each of the representations and warranties in this Clause 6 is deemed to be made by the Issuer on each day from the date of the Deed until the earlier of:

- (1) the date upon which Settlement of all of the CVRs has been irrevocably effected in full; and
- (2) the Maturity Date in the event that a Triggering Event has not occurred on or prior to the Maturity Date.

7. GENERAL COVENANTS

7.1 So long as any CVR is outstanding, the Issuer covenants to and with, and for the benefit of, each of the Rightsholders that:

- (1) **Notice of inability to perform:** the Issuer shall promptly (and in any event within three (3) Business Days) of becoming so aware) inform the Rightsholders in writing in accordance with Condition 10 of the Conditions of any occurrence of which it becomes aware which might materially and adversely affect its ability to perform its obligations under the CVRs;
- (2) **Compliance:** the Issuer will comply with and perform and observe all the provisions of this Instrument and the Conditions which are expressed to be binding on it;
- (3) **Merger etc.:** the Issuer will not consolidate with, merge or amalgamate into or transfer its assets substantially to any corporation (not being part of the Group) or convey or transfer its properties and assets substantially to any person (not being part of the Group) (the consummation of any such event, a “**Merger**”), unless: (i) the Issuer has notified the holders of the CVRs of such event in accordance with Condition 10 of the Conditions; and (ii) the corporation formed by such Merger or the person that acquires such properties and assets shall expressly assume all obligations of the Issuer under the CVRs and the performance of every covenant and agreement applicable to the Issuer contained therein and herein;
- (4) **Financial Reporting:** the Issuer shall comply with the financial reporting requirements (including without limitation the publication of its annual audited financial statements)

under all applicable laws, regulations and the Listing Rules, including but not limited to publication of its financial results in a timely manner and by no later than the due date as required under the Listing Rules and the preparation of its financial statements in accordance with IFRS consistently applied and the Issuer shall not change its Reporting Year for its annual audited financial statements;

- (5) **No winding-up:** the Issuer shall not take any step with a view to effect a dissolution, liquidation or winding up of the Issuer or any Group company unless it is a commercial decision for the benefit of the future of the Group and with the prior written consent of a Special Resolution of the Rightsholders;
- (6) **Non-contravention:** the Issuer shall not enter into any deed, agreement, assignment, instrument or document whatsoever binding on it which may result in any breach of its Articles or this Instrument and/or the Conditions;
- (7) **Accounting:** the Issuer shall not change its method of accounting and, in particular, the Issuer shall not change the method or basis of calculating its “Profit Before Taxation” or “Non-cash costs”;
- (8) **No change of Auditor:** the Issuer shall not change or permit the change of its Auditor to a firm other than a well-recognised and suitably qualified international accounting firm without the prior written consent of a Special Resolution of the Rightsholders.

7.2 The Conditions and the provisions contained in Schedule 2 (Provisions for meetings of Rightsholders(s)) shall have effect in the same manner as if herein set forth.

8. SETTLEMENT AND RELATED COVENANTS

8.1 **Settlement:** Upon the occurrence of the Triggering Event, the Issuer hereby undertakes to and covenants with, for the benefit of the Rightsholders that the holder of each CVR will receive (on the Settlement Date) at the sole option of the Issuer and subject to and in accordance with the Conditions, cash, CVR Shares (credited as fully paid) or any combination of cash and CVR Shares, provided that:

- (1) the Issuer shall cease to have the right to settle the CVRs in CVR Shares or any combination of CVR Shares and cash in the event that the CVR Shares are not or have ceased to be listed on the Stock Exchange or a delisting notice has been issued in respect of such shares and remains in effect as at the Settlement Date;
- (2) in the event that the Issuer fails to effect Settlement in full on or before the Settlement Date, the Company shall be required to effect Settlement in cash only unless a Special Resolution of Rightsholders permits the Issuer to effect all or part of the Settlement in CVR Shares; and
- (3) if the Issuer elects to issue a combination of cash and CVR Shares, each of the Rightsholders shall receive a pro rata allocation of cash and CVR Shares.

8.2 **Settlement related covenants:** The Issuer hereby undertakes to and covenants with, and for the benefit of, the Rightsholders that so long as any CVR remains valid and existing it shall:

- (1) **Ranking:** ensure that (a) the CVRs constitute unsecured obligations of the Issuer and shall rank *pari passu* in all respects among themselves and with all existing and future unsubordinated and unsecured obligations of the Issuer; and (b) all CVR Shares allotted pursuant to Settlement shall rank *pari passu* in all respects with the fully paid Shares in issue on the Settlement Date and shall accordingly entitle the holders to participate in full in all dividends and/or other distributions declared and paid or made on the Shares after the relevant Settlement Date;
- (2) **Listing of Shares:** use its best endeavours to maintain a listing on the Stock Exchange for all the issued Shares for the time being and, as soon as reasonably practicable after their issue, for all CVR Shares upon Settlement and give notice to the Rightsholders of any step to delist any of the Shares by the Stock Exchange; and if the Issuer is unable to obtain or maintain such listing, to use its best endeavours to obtain and maintain a listing for all the issued Shares on an alternative stock exchange as the Issuer may from time to time determine in consultation with the Rightsholders and will forthwith give notice to the Rightsholders of the delisting of the Shares on the Stock Exchange and the listing of the Shares on any such alternative stock exchange;
- (3) **Compliance:** in respect of the issue of the CVRs and the listing of and permission to deal in the CVR Shares issued upon Settlement, comply with all rules, regulations, practice directions and other applicable directives imposed by the Stock Exchange and all other regulatory authorities having jurisdiction over it;
- (4) **Expenses:** to pay all of the expenses of the issue of, and all expenses of obtaining listing on the Stock Exchange of, CVR Shares arising on settlement of the CVRs; and
- (5) **Part 16 registration:** to maintain its registration as a non-Hong Kong company under Part 16 of the Companies Ordinance (Cap. 622) and authorise at least one representative to accept the service of process and notices in accordance with section 774(1) of the Companies Ordinance.

9. MODIFICATIONS

- 9.1 Any modification to this Instrument or the Conditions may be effected only by deed poll, executed by the Issuer and expressed to be supplemental hereto, and (save for amendments to rectify manifest errors of an administrative or clerical nature that do not adversely affect the rights of Rightsholders under the Instrument of the Conditions) only if it shall first have been sanctioned by a Special Resolution in the case of Special Matters or, in the case of other modifications, by Ordinary Resolution.
- 9.2 A memorandum of every such supplemental deed shall be endorsed on this Instrument.
- 9.3 Notice of every modification to this Instrument or the Conditions shall be given to the Rightsholders as soon as reasonably practicable and in any event within five (5) business days from the date of such modification.

10. SUIT BY AND MEETINGS OF RIGHTSHOLDERS

- 10.1 The Issuer hereby acknowledges and covenants to and with, and for the benefit of, the Rightsholders that the benefit of the representations, warranties, covenants, obligations and

conditions contained in this Instrument and/or the Conditions shall enure to each and every Rightsholder.

- 10.2 Subject to the Conditions, each Rightsholder shall be entitled severally to enforce the said representations, warranties, covenants, obligations and conditions against the Issuer insofar as each such Rightsholder's CVRs are concerned and pursue such other rights and remedies as it may desire (including without limitation suing to recover damages and/or requiring an order for specific performance), without the need to join the allottee of any CVR or any intervening or other Rightsholders in the proceedings for such enforcement or to seek the consent of any other Rightsholder.
- 10.3 The Rightsholders may hold meetings for the consideration of such matters as they may think fit. The provisions of Schedule 2 shall apply to regulate the convening and conduct, and the powers, of all meetings of Rightsholders. Such provisions may only be altered by Special Resolution.

11. COMMUNICATIONS

- 11.1 Any communication to the Issuer shall be by letter delivered personally to its principal place of business in Hong Kong registered under Part 16 of the Companies Ordinance, currently Suites 2104-05, Hutchison House, 10 Harcourt Road, Hong Kong, (or such other address as shall be notified in writing by the Issuer to the Rightsholders from time to time with specific reference to this Instrument).
- 11.2 Any such communication will take effect, in the case of delivery, at the time of receipt by the Issuer or, in the case of facsimile transmission, at the time of despatch which shall be deemed properly transmitted on receipt of a report of satisfactory transmission printed out by the sending machine.
- 11.3 Any communication to the Rightsholders shall be delivered in accordance with Conditions 10.1 and 10.3.

12. GOVERNING LAW

- 12.1 **Governing law:** This Instrument shall be governed by and construed in accordance with the laws of Hong Kong.
- 12.2 The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Instrument (including any dispute regarding the existence, validity or termination of this Instrument) (a "**Dispute**").
- 12.3 The Issuer and the Rightsholders agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly neither the Issuer nor the Rightsholders will argue to the contrary.
- 12.4 This Clause 12 is for the benefit of the Rightsholders only. As a result, the Rightsholders shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction.
- 12.5 To the extent allowed by law, Rightsholders may take concurrent proceedings in any number of jurisdictions.

IN WITNESS whereof this Instrument has been executed as a deed poll on the date stated at the beginning.

THE COMMON SEAL of)
WINSWAY ENTERPRISES)
HOLDINGS LIMITED)
was hereunto affixed in the presence of:)

Schedule 1
Form of Certificate

On the front:

Principal amount:
US\$[*]

Certificate no.: [*]

WINSWAY ENTERPRISES HOLDINGS LIMITED
(Incorporated in the British Virgin Islands with limited liability)

US\$10,000,000
CONTINGENT VALUE RIGHTS

Issued pursuant to the articles of association of Winsway Enterprises Holdings Limited (“Issuer”) and a resolution of its board of directors passed on [*], 2016. The CVRs in respect of which this Certificate is issued, the identifying numbers of which are noted above, are in registered form and form part of a series designated as specified in the title (the “CVRs”) of the Issuer and constituted by the Instrument referred in the terms and conditions of the CVRs as attached hereto (“Conditions”). The CVRs are subject to, and have the benefit of, that Instrument. Such Instrument (together with any instruments supplemental thereto) and copies of the memorandum and articles of association of the Issuer are available for inspection by Rightsholders at the principal office for the time being in Hong Kong of the Issuer.

Rightsholders will be deemed to have notice of all the provisions contained in the said Instrument (and any instruments supplemental thereto) and may obtain copies thereof upon written request to the Issuer.

THIS IS TO CERTIFY that

[*]

whose registered address or principal place of residence is situate at [*] is, at the date hereof, entered in the Issuer’s register of Rightsholders maintained by Maples Fund Services (Cayman) Limited (“Register of Rightsholders”) as the holder of the CVRs in the principal amount of US\$[*] (which amount is also set out on the top left hand side of this certificate (this “Certificate”). For value received, the Issuer by such entry promises to pay the person who appears at the relevant time on the Register of Rightsholders as a holder of the CVRs in respect of which this Certificate is issued such amount or amounts as shall become due in respect of such CVRs in accordance with the Conditions and each of the Issuer and the Rightsholder mentioned above agrees to comply with the Conditions.

The CVRs in respect of which this Certificate is issued shall be settled at the sole option of the Issuer by cash or ordinary shares of the Issuer or any combination thereof subject to and in accordance with the Conditions and the Instrument.

This Certificate is evidence of entitlement only. Title to the CVRs passes only on due registration on the Register of Rightsholders and only the duly registered holder is entitled to payments on CVRs in respect of which this Certificate is issued.

This Certificate shall not be valid for any purpose until executed by the Issuer.

This Certificate is governed by, and shall be construed in accordance with, the laws of the Hong Kong Special Administrative Region of the People’s Republic of China.

In witness whereof, the Issuer has caused this Certificate to be executed as a deed on [*] 2016.

EXECUTED AS A DEED BY)
WINSWAY ENTERPRISES HOLDINGS LIMITED)
Acting by:)
In the presence of)

(For endorsement in the event of partial transfer)

<u>Date</u>	<u>Amount Transferred</u>	<u>Amount Outstanding</u>
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[On the back/ Attached hereto]: Terms and Conditions of the CVRs

[Reverse side of/ Attached to CVR certificate]

Terms and Conditions of the CVRs

The following, other than the words in italics, is the text of the Terms and Conditions of the CVRs which will appear on the reverse of each definitive certificate evidencing the CVRs.

The issue of US\$10,000,000 in aggregate principal amount of contingent value rights (the “**CVRs**”) of Winsway Enterprises Holdings Limited (the “**Issuer**”), a company incorporated in the British Virgin Islands, on the issue date on the CVRs (the “**Issue Date**”) was authorised by a resolution of the Board passed on 24 February 2016. The CVRs are constituted by a deed poll (the “**Instrument**”, such expression shall include amendments and modifications from time to time made thereto) dated [*] 2016 executed by the Issuer in favour of and for the benefit of each of the Rightsholders. The statements in these Terms and Conditions include summaries of, and are subject to, the detailed provisions of the Instrument. Copies of the Instrument are available for inspection by Rightsholders at the principal office of the Issuer being at the date hereof at its principal place of business in Hong Kong at Suites 2104-05, Hutchison House, 10 Harcourt Road, Hong Kong. The Rightsholders are entitled to the benefit of the Instrument and are bound by, and are deemed to have notice of, all the provisions of the Instrument.

1. Definitions and Interpretation

1.1 For the purpose of these Conditions, the words and expressions set out below shall have the meaning attributed to them below unless the context otherwise requires:

“**Board**” means the board of directors of the Issuer from time to time.

“**Business Day**” means a day (other than a Saturday and a Sunday and a day on which a tropical cyclone warning number 8 or above or a “black rainstorm warning signal” is hoisted in Hong Kong at any time between 9:00 a.m. and 5:00 p.m.) on which licensed banks are open for general banking business in Hong Kong throughout their normal business hours.

“**CCASS**” means the Central Clearing and Settlement System operated by Hong Kong Securities Clearing Company Limited.

“**Certificate**” means a certificate in or substantially in the form set out in Schedule 1 of the Instrument issued in the name of the holder of a principal amount of CVRs and includes any replacement Certificate issued pursuant to the CVRs, together with the Conditions, and “**Certificates**” shall be construed accordingly.

“**Conditions**” means these terms and conditions as may from time to time be modified in accordance with the provisions of the Instrument.

“**CVR Shares**” means any Shares to be issued by the Issuer upon Settlement.

“**Designated Office**” means at any time the Issuer’s principal place of business in Hong Kong at that time, being, as at the Issue Date, Suites 2104-05, Hutchison House, 10 Harcourt Road, Hong Kong.

“**Encumbrance**” means any mortgage, charge, pledge, lien (otherwise than arising by statute or operation of law), hypothecation or other encumbrance, priority or security interest, deferred purchase, title retention, leasing, sale-and-repurchase or sale-and-leaseback arrangement

whatsoever over or in any property, assets or rights of whatsoever nature and includes any agreement for any of the same and “Encumber” and “Encumbrancer” shall be construed accordingly.

“Group” means the Issuer and its Subsidiaries from time to time and “members of the Group” shall be construed accordingly.

“HK\$” or “Hong Kong dollars” means Hong Kong dollars, the lawful currency of Hong Kong.

“Hong Kong” means the Hong Kong Special Administrative Region of the People’s Republic of China.

“Listing Rules” means the Rules Governing the Listing of Securities on the Stock Exchange.

“Material Adverse Effect” means (a) any event, fact, change, development, effect or circumstance that is or may be materially adverse to the business, operations, assets (including intangible assets), liabilities (including contingent liabilities), business or financial condition, results or prospects of the Group taken as a whole, or (b) material impairment of the ability of the Issuer to perform its obligations under the CVRs, provided that (i) any change that generally affects the industries or markets in which the Group operates, (ii) any change in the financial markets or general economic or political conditions, (iii) any change in law or any accounting principle applicable to the Group (iv) the issue of the CVRs by the Issuer and/or (v) the entering into of transactions by any member of the Group in connection with the business of the Group, shall not be taken as a “Material Adverse Effect”.

“Maturity Date” means [●] 2021, five (5) years after the Initial Distribution Date as defined in the Schemes, and if that is not a Business Day, the Business Day thereafter.

“Ordinary Resolution” has the meaning ascribed to it in paragraph 17 of Schedule 2 to the Instrument.

“Register of Rightsholders” has the meaning given to it in Condition 3.3(a).

“Restructuring Support Agreement” means the restructuring support agreement dated 25 November 2015 between the Issuer, certain Noteholders and Subsidiary Guarantors in respect of the issuance of the CVRs, as varied, amended, modified, supplemented or novated from time to time.

“Rightsholder” means a person in whose name a CVR is registered in the Register of Rightsholders, and “holder” in relation to a CVR has a corresponding meaning.

“Settlement” means the settlement of the CVRs following the Triggering Event in the form of cash or Shares or any combination of the two (in accordance with the terms and conditions of the Instrument and the Conditions).

“Settlement Date” means the earlier of: (i) the first Business Day falling 4 months after the end of the Reporting Year in which the Triggering Event occurred and (ii) 30 calendar days from the date of the Trigger Event Notice.

“Settlement Information Notice” has the meaning given to it in Condition 5.5(a).

“Settlement Price” has the meaning given to it in Condition 5.4.

“Shares” means the ordinary shares of the Issuer and listed on the Stock Exchange and all other (if any) stock or shares from time to time and for the time being ranking *pari passu* therewith, and all other (if any) stock or shares resulting from any sub-division, consolidation or re-classification thereof, which as between themselves have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation or dissolution of the Issuer.

“Shareholder(s)” means holder(s) of the Shares.

“Special Matter” has the meaning ascribed to it in paragraph 16 of Schedule 2 to the Instrument.

“Special Resolution” has the meaning ascribed to it in paragraph 19 of Schedule 2 to the Instrument.

“Stock Exchange” means The Stock Exchange of Hong Kong Limited.

“Subsidiary” has the definition ascribed to them “subsidiary” in the Listing Rules.

“Takeovers Code” means the Hong Kong Codes on Takeovers and Mergers and Share Buy-backs.

“Tax” and “Taxation” means (a) any form of tax whenever created or imposed and whether of Hong Kong, British Virgin Islands or elsewhere, payable to or imposed by any taxation authority and includes, without limitation, profits tax, provisional profits tax, interest tax, salaries tax, property tax, taxes on income, estate duty, capital duty, stamp duty, payroll tax and other similar liabilities or contributions and any other taxes, levies, duties, charges, imposts or withholdings similar to, corresponding with, or replacing or replaced by any of the foregoing and including an amount equal to any deprivation of any relief from taxation; and (b) all charges, interests, penalties and fines, incidental or relating to any Taxation falling within (a) above.

“Trading Day” means a day on which trading of the Shares is conducted on the Stock Exchange in accordance with the rules and regulations of the Stock Exchange promulgated from time to time.

“Trigger Event Notice” has the meaning given to it in Condition 5.1(a).

“US\$” means United States dollars, the lawful currency of the United States of America.

- 1.2 A reference to a “date of announcement” shall mean the first date on which the matter or document referred to in the public announcement made under the Listing Rules is released and uploaded on the official website of Hong Kong Exchanges and Clearing Limited; and for the avoidance of doubt, where (a) a public announcement is required to be made under the Listing Rules but is not made, the “date of announcement” shall be deemed to be the date of the occurrence of the underlying matter or the execution of the underlying document; and “announced” and “announcement” shall be construed accordingly.
- 1.3 Except as otherwise expressly provided, expressions defined in the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) have the same meaning when used in these Conditions.

- 1.4 A reference to a statute or statutory provision includes a reference:
- (a) to that statute or provision as from time to time modified or re-enacted; and
 - (b) to any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision.
- 1.5 References to any Hong Kong statutory provision or legal term for any action, remedy, method of judicial proceeding, legal document, legal statutes, court, official or other legal concept, state of affairs or thing shall in respect of any jurisdiction other than Hong Kong be deemed to include that which most nearly approximates in that jurisdiction to the Hong Kong statutory provision or legal term or other legal concept, state of affairs or thing.
- 1.6 Unless the context otherwise requires:
- (a) words in the singular include the plural, and vice versa;
 - (b) words importing either gender or the neuter include both genders and the neuter; and
 - (c) a reference to a person includes a reference to a body corporate and to an unincorporated body of persons.
- 1.7 Condition headings in these Conditions are included for convenience of reference only and shall not constitute a part of the CVRs for any other purpose. The Exhibits to these Conditions form part of these Conditions and shall be read accordingly.
- 1.8 In these Condition, a reference to "writing" means any communication consisting of words in any legible or visible form, including words produced by any form of electrical or mechanical means and in typed or printed format as well as in manuscript.

2. Status

The CVRs constitute unsecured obligations of the Issuer and shall at all times rank *pari passu* and without any preference or priority among themselves and all existing and future unsubordinated and unsecured obligations of the Issuer.

3. Form, Denomination, Title, Register, Certificate

3.1 Form and Denomination

The CVRs are issued in registered form denominated in United States Dollars, but without other denomination upon initial issue. A Certificate will be issued to each Rightsholder in respect of its registered holding of the CVRs. Each CVR and each Certificate will be numbered serially with an identifying number which will be recorded on the relevant Certificate and in the Register of Rightsholders which will be kept by the Issuer pursuant to Condition 3.3.

3.2 Title

Title to the CVRs will pass only by transfer and registration in the Register of Rightsholders as described in Condition 4. The holder of any CVR will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any

notice of ownership, trust or any interest in it or any writing on, or the theft or loss of, the Certificate issued in respect of it) and no person will be liable for so treating the holder.

3.3 *Register of Rightsholders*

The Issuer will or will procure Maples Fund Services (Cayman) Limited to maintain and keep the register (the “Register of Rightsholders”) on which the names and addresses of the holders of the CVRs and the particulars of the CVRs held by them and all transfers of the CVRs are entered. Each holder of such CVRs shall be entitled to receive only one Certificate in respect of its entire holding of the CVRs.

3.4 *Certificate*

Where only part of a principal amount of the CVRs in respect of which a Certificate is issued is to be transferred, a new Certificate in respect of the CVRs not so transferred will, within three (3) Business Days of delivery of the original Certificate together with the other documents required under these Conditions to the Issuer, be made available for collection at the specified office of the Issuer. Alternatively, if so requested in the form of transfer (the form of which is set out in Exhibit A), such new Certificate may be mailed by uninsured mail at the risk of the holder of the CVRs not so transferred (but at the Issuer’s expense) to the address of such holder appearing on the Register of Rightsholders.

4. Transfers of CVRs

- 4.1 Subject to Conditions 4.2 to 4.6, all or part of a CVR may be transferred or exchanged at any time provided that, if in part, any transfer is in a denomination of US\$10,000 or any integral multiple thereof unless the face value of the CVRs held by such Rightsholder is less than US\$10,000, in which case such Rightsholder may transfer its entire outstanding CVR. The transfer of a CVR shall be effected by delivery of the Certificate issued in respect of that CVR, with the form of transfer (the form of which being set out in Exhibit A) duly completed and signed by the registered Rightsholders or his attorney duly authorised in writing, to the Issuer at the Designated Office together with such evidence as the Issuer may reasonably require to prove the authority of the individuals who have executed the form of transfer and promptly upon receipt of such documents the Issuer shall procure that the name and address of the transferee and the particulars of the transferring CVRs are fully recorded on the Register of Rightsholders. No transfer of title to a CVR will be valid unless and until entered on the Register of Rightsholders.
- 4.2 A CVR may only be transferred on the basis that it shall be subject to (where applicable) the conditions, approvals, requirements and any other provisions of or under (i) the Listing Rules; (ii) the Takeovers Codes; and (iii) all applicable laws and regulations.
- 4.3 No Rightsholder may require the transfer or exchange of any CVR to be registered during the period of fifteen (15) Business Days ending on (and including) the Settlement Date. Where only part of a principal amount of the CVRs in respect of which a Certificate is issued is to be transferred, the Issuer shall procure that a new Certificate in respect of the CVRs not so transferred is, within three (3) business days of delivery of the original Certificate together with the other documents required these Conditions to the Issuer, made available for collection at the specified office of the Issuer or, if so requested in the form of transfer, mailed to the address of such holder appearing on the Register.

- 4.4 Each new Certificate to be issued upon a transfer of CVRs will, within three (3) Business Days of receipt by the Issuer of the original Certificate and other documents referred to in Condition 4.1, be made available for collection at the specified office of the Issuer or, if so requested in the form of transfer, be mailed by uninsured mail at the risk of the holder entitled to the CVRs (but free of charge to the holder and at the Issuer's expense) to the address specified in the form of transfer.
- 4.5 Registration of a transfer of CVRs and issuance of new Certificates will be effected without charge by the Issuer, but upon payment by the transferee (or, at the Issuer's option, the giving of such indemnity as the Issuer may require) in respect of any Tax or other governmental charges which may be imposed in relation to such transfer, and the Issuer being satisfied that the laws, rules, codes and regulations concerning transfers of CVRs have been complied with.

5. Settlement

5.1 *Settlement*

- (a) The Issuer shall serve notice on the Rightsholders of the occurrence of a Triggering Event within three (3) Business Days of the occurrence of the Triggering Event ("**Trigger Event Notice**").
- (b) Subject as provided in these Conditions, upon the occurrence of the Triggering Event the Issuer shall settle the CVRs in full on the Settlement Date at the face value recorded on each Certificate.
- (c) The Issuer may, at its election, effect Settlement by the issue of Shares (credited as fully paid), cash or any combination of Shares and cash in accordance with these Conditions, provided that:
- (1) the Issuer shall cease to have the right to settle the CVRs in CVR Shares or any combination of CVR Shares and cash in the event that the CVR Shares are not or have ceased to be listed on the Stock Exchange or a delisting notice has been issued in respect of such shares and remains in effect as at the Settlement Date;
 - (2) in the event that the Issuer fails to effect Settlement in full on or before the Settlement Date, the Company shall be required to effect Settlement in cash only unless a Special Resolution of Rightsholders permits the Issuer to effect all or part of the Settlement in CVR Shares; and
 - (3) if the Issuer elects to issue a combination of cash and CVR Shares, each of the Rightsholders shall receive a pro rata allocation of cash and CVR Shares.

5.2 *Number of Shares issuable on Settlement*

Where the Issuer elects to settle the CVRs (or any part thereof) in Shares, if a Rightsholder holds CVRs evidenced by more than one Certificate, the number of Shares to be issued upon settlement will be calculated on the basis of the aggregate principal amount of the CVRs held by that Rightsholder to be settled.

The number of Shares to be issued upon settlement of a CVR or any part thereof by Shares will be determined by the following formula:

$$S = \frac{B}{P}$$

Where

S = number of Shares to be issued;

B = the whole or such part of the principal amount of the CVRs to be settled by Shares; and

P = the Settlement Price.

5.3 *Fractions of Shares:*

Fractions of Shares will not be issued on settlement and no cash adjustments will be made in respect thereof.

5.4 *Settlement Price:*

The price at which Shares will be issued upon settlement will be the 30-day volume weighted average price of Shares up to the Trading Day immediately prior to the Settlement Date, quoted in HK\$ per Share, converted into US\$ at the exchange rate on Bloomberg under the ticker USDHKD Currency (USDHKD Spot Exchange Rate) at 12:00 noon (Hong Kong time) on the Settlement Date (the "Settlement Price").

5.5 *Settlement Procedures and related provisions:*

- (a) **Settlement Information Notice:** To facilitate Settlement under these Conditions, the Rightsholder should complete, execute and deposit at its own expense during normal business hours at the Designated Office, by fax at +852 2555 7800 or by e-mail at CVR-admin@winsway.com an information notice (a "Settlement Information Notice") in the form scheduled to these Terms as Exhibit B not later than seven (7) Business Days of the date such Rightsholder receives the Trigger Event Notice.
- (b) **Stamp Duty etc.:** (i) A transferee of CVRs must pay directly to the relevant authorities any Taxes and capital, stamp, issue and registration duties arising on the transfer or disposal of CVRs (other than any Taxes or capital or stamp duties payable in the British Virgin Islands or Hong Kong by the Issuer in respect of the allotment and issue of CVR Shares and listing of the Shares on the Stock Exchange upon Settlement). (ii) The Issuer will pay any stamp, issue, registration, documentary, transferor other taxes and duties, including interest and penalties, payable in British Virgin Islands or Hong Kong in respect of the creation, issue and offering of the CVRs and the execution or delivery of this Certificate and pay any taxes and capital, stamp, issue and registration duties in Hong Kong, the British Virgin Islands or, if relevant, the place of any alternative stock exchange, arising from the Settlement of CVRs and the allotment and issue of CVR Shares following such Settlement.

- (c) **Registration of CVR Shares and Delivery of Certificates:** On the Settlement Date, the Issuer will, in the case of CVRs settled in CVR Shares, in accordance with instructions and information set out in the last Settlement Information Notice delivered by the Rightsholder to the Designated Office in accordance with Condition 5.5(a), or in the absence of such Settlement Information Notice, using the latest provided information in relation to the relevant Rightsholder already entered on the Register of Rightsholder, in the case of CVR Shares to be issued and allotted to a Rightsholder, or any person designated by a Rightsholder :
- a. enter the name and address of the Rightsholder, or any person designated by the Rightsholder, in the Share Register in respect of the CVR Shares to which it is entitled (without payment of registration fees); and
 - b. deliver by courier or registered post to that Rightsholder, or the person designated by the Rightsholder, a share certificate in respect of the relevant CVR Shares (in board lots) with (if applicable) a second certificate for any CVR Shares in odd lots.
- (d) **Ranking of CVR Shares:** The CVR Shares issued upon Settlement will be fully-paid and free from all Encumbrances and in all respects rank *pari passu* with the Shares in issue on the Settlement Date and shall be immediately tradable on the Stock Exchange. Save as set out in these Conditions, a holder of CVR Shares shall not be entitled to any rights the record date for which precedes the relevant Settlement Date.
- (e) Payment of cash upon Settlement of CVRs will be made on the Settlement Date and will be made by transfer to the registered account of the Rightsholders in cash as specified in the Settlement Information Notice delivered by the Rightsholder to the Designated Office in accordance with Condition 5.5(a), or in the absence of such Settlement Information Notice, to the registered account of the Rightsholders in cash as recorded on the register.

For the purpose of this Condition 5, a Rightsholder's registered account means the account maintained by or on behalf of it with a bank in any jurisdiction from time to time, details of which have been provided in writing by the Rightsholder to the Register of Rightsholders in a Settlement Information Notice delivered by the Rightsholder to the Designated Office in accordance with Condition 5.5(a).

6. Default Interest and Delay in Payment

- (a) If the Issuer fails to pay any sum in respect of the CVRs or to deliver CVR Shares, as applicable, when the same becomes due and payable under these Conditions, interest shall accrue on the overdue sum and the CVR Shares (as applicable), the number of CVR Shares multiplied by the Settlement Price, being in the case of non-delivery at the rate of 2% above the Hongkong and Shanghai Banking Corporation Hong Kong dollar best lending rate from time to time per annum (the "Default Interest") from the due date and ending on the date on which full payment is made to the Rightsholders in accordance with the Conditions. Such default interest shall accrue on the basis of the actual number of days elapsed and a 365-day year.

- (b) A Rightsholder will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a Business Day, or if the delay is caused by the relevant Rightsholder being late in surrendering its Certificate (if required to do so).

7. Cancellation and Lapse

7.1 *Lapse*

If no Triggering Event has occurred on or before the Maturity Date, all CVRs shall lapse once the annual audited financial statements for the 2021 Reporting Year have been provided to the Rightsholders evidencing that no such Triggering Event has occurred.

7.2 *Cancellation*

All CVRs which are settled in full by the Issuer or which lapse will forthwith be cancelled and such CVRs may not be reissued or resold.

8. Taxation

All payments made by and/or CVR Shares issued by the Issuer with respect to the CVRs shall be made free from any restriction or condition and be made without deduction or withholding for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the British Virgin Islands, Hong Kong, People's Republic of China or any other jurisdiction or any authority thereof or therein having power to tax (each, a "Taxing Jurisdiction"), unless deduction or withholding of such taxes, duties, assessments or governmental charges is compelled by law. In such event, the Issuer will pay such additional amounts as will result in the receipt by the Rightsholders of the net amounts after such deduction or withholding equal to the amounts which would otherwise have been receivable by them had no such deduction or withholding been required, except that no such additional amount shall be payable in respect of any CVR to a holder (or to a third party on behalf of a holder) who is subject to such taxes, duties, assessments or governmental charges in respect of such CVR by reason of his having some connection with the Taxing Jurisdiction, otherwise than merely by holding the CVR or by the receipt of amounts in respect of the CVR.

9. Replacement Certificate

If the Certificate for the CVRs is lost, mutilated, defaced, destroyed, or stolen, the relevant Rightsholder shall notify the Issuer as soon as practicable and the Issuer shall procure that a replacement Certificate shall be promptly issued if the relevant Rightsholder provides the Issuer with a declaration by the relevant Rightsholders or its officer or director that the original Certificate for the CVRs had been lost or mutilated (as the case may be) or other evidence that the Certificate for the CVRs had been lost mutilated defaced, destroyed, or stolen, together with the mutilated or defaced Certificate for the CVRs (if applicable). The Certificate for the CVRs replaced in accordance with this Condition shall forthwith be cancelled.

10. Notices

- 10.1 Any notice or other communication to be given or made under the CVRs shall be in writing and shall be given or made by facsimile, by email or by first class pre-paid post, by courier or personally delivered. Any such notice or communication shall be sent to the party to whom it is

addressed and must contain sufficient reference and/or particulars to render it readily identifiable with the subject matter of the CVRs. If so given or made by facsimile or email, such notice or communication shall be deemed received on the date of despatch; if so given or made by post to an address in Hong Kong, shall be deemed to be received two (2) Business Days after the date of despatch; if so given or made by air-mail to an address outside Hong Kong, shall be deemed received seven (7) Business Days after the date of despatch; and if so given or made by courier or personally delivered, shall be deemed received at the time of delivery.

- 10.2 The relevant address, facsimile number and email address of the Issuer and the Registrar for the purpose of notices and communications are as follows:

Issuer

Address: Suites 2104-05, Hutchison House, 10 Harcourt Road, Hong Kong

Facsimile Number: +852 2555 7800

Attention: Ms. Cao Xinyi (CEO and Company Secretary)

Registrar

Address: Maples Fund Services (Cayman) Limited
c/o 53/F The Center, 99 Queen's Road Central, Hong Kong

Attention: Investor Services

- 10.3 The relevant address, email address and facsimile number and contact person of each Rightsholders for the purpose of notices and communications shall be as set out in the Register of Rightsholders as may be amended by a Settlement Information Notice duly delivered by the Rightsholder to the Designated Office in accordance with Condition 5.5(a).

11. Amendment, Modification and Waiver

The terms and conditions of the CVRs may only be varied, modified, expanded or amended by agreement in writing between the Issuer and the Rightsholders by way of a Special Resolution in respect of Special Matters or by way of Ordinary Resolution for other variations, modifications, expansions or amendments. Any consent or approval in relation to the CVRs or any waiver or authorisation of any breach by the Issuer of the CVRs may only be effected after being sanctioned by a Special Resolution in respect of Special Matters or by an Ordinary Resolution in respect of all other matters and any such variation, expansion and amendment shall apply equally to all CVRs regardless of whether any given Rightsholder has participated in the relevant meeting of Rightsholders or given its approval in writing and shall be notified to the Rightsholders generally and be binding on the Issuer and all Rightsholders.

12. Meetings of Rightsholders

- 12.1 The Instrument contains provisions for convening meetings of Rightsholders to consider any matter affecting their interests, including the sanctioning by Special Resolution or Ordinary Resolutions (as applicable) of a modification of the CVRs or the provisions of the Instrument or Conditions.

- 12.2 The quorum at any such meeting for passing an Ordinary Resolution will be one or more persons holding or representing at least 10% in principal amount of the CVRs for the time being outstanding or, at any adjourned such meeting, one or more persons holding or representing at least 5% in principal amount of the CVRs. An Ordinary Resolution passed at any meeting of Rightsholders will be binding on all Rightsholders, whether or not they are present at the meeting. The Instrument provides that a written resolution signed by or on behalf of a holder or the holders of not less than 50% of the aggregate principal amount of CVRs outstanding shall be as valid and effective as a duly passed Ordinary Resolution.
- 12.3 The quorum at any such meeting for passing a Special Resolution will be one or more persons holding or representing at least 75% in principal amount of the CVRs for the time being outstanding or, at any adjourned such meeting, one or more persons holding or representing at least 50% in principal amount of the CVRs. A Special Resolution passed at any meeting of Rightsholders will be binding on all Rightsholders, whether or not they are present at the meeting. The Instrument provides that a written resolution signed by or on behalf of a holder or the holders of not less than 90% of the aggregate principal amount of CVRs outstanding shall be as valid and effective as a duly passed Special Resolution.

13. No waiver of Rightsholders' rights

No omission or delay by any Rightsholder in exercising any rights under the CVRs shall operate as a waiver, and the single or partial exercise of any such right or rights shall not preclude any other further exercise of such right or rights.

14. Governing law and jurisdiction

- 14.1 The CVRs and the Instrument and Conditions are governed by and shall be construed in accordance with the laws of Hong Kong.
- 14.2 The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with the CVRs, the Instrument and Conditions (including any dispute regarding the existence, validity or termination of the Instrument) (a “**Dispute**”).
- 14.3 The Issuer and the Rightsholders agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly neither the Issuer nor the Rightsholders will argue to the contrary.
- 14.4 This Clause 14 is for the benefit of the Rightsholders only. As a result, the Rightsholders shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Rightsholders may take concurrent proceedings in any number of jurisdictions.

**Exhibit A
FORM OF TRANSFER**

WINSWAY ENTERPRISES HOLDINGS LIMITED (“ISSUER”)

**US\$10,000,000
CONTINGENT VALUE RIGHT**

TRANSFER NOTICE

[CERTIFICATE NUMBER]

FOR VALUE RECEIVED the undersigned hereby transfers to

.....
.....

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF TRANSFEREE)

US\$[*] principal amount of the CVR (in integral amounts of US\$10,000) in respect of which this Certificate is issued, and all rights and obligations in respect thereof including without limitation all rights and obligations under or in connection with the Conditions and the Instrument.

Any payments to be made and any CVR Shares to be issued in respect of the CVRs hereby transferred are to be made/issued to the accounts specified in a Settlement Information Notice to be delivered to the Designated Office of the Issuer in accordance with the Conditions. :

Dated:

Certifying Signature

Name:

CVRs:

- (a) A representative of the holder of the CVRs should state the capacity in which he signs, e.g. executor.
- (b) The signature of the persons effecting a transfer shall conform to any list of duly authorised specimen signatures supplied by the registered holder or be certified by a notary public or in such other manner as the Registrar of Rightsholders or the Issuer may require.
- (c) This form of transfer should be dated as of the date it is deposited with the Issuer at the Designated Office.
- (d) Transfers of the CVRs are subject to the restrictions set out in the Conditions.

Exhibit B
FORM OF SETTLEMENT INFORMATION NOTICE

WINSWAY ENTERPRISES HOLDINGS LIMITED

US\$10,000,000
CONTINGENT VALUE RIGHTS

SETTLEMENT INFORMATION NOTICE

[date]

To: Winsway Enterprises Holdings Limited (the "Designated Office")

Re: Settlement Information Notice in relation to the US\$10,000,000 Contingent Value Rights (the "CVRs"), constituted by the Certificate issued in respect of the CVRs number [*]. Capitalised terms used herein and not otherwise defined shall have their respective meanings as set forth in the Certificate and Conditions.

Dear Sirs,

I/We, being the holder(s) of CVRs as hereby deliver this Settlement Information Notice pursuant to Condition 5.5(a) of the CVRs. Capitalised terms used herein shall, unless otherwise defined, have the same meanings as given to them in the Certificate and the Conditions.

1. Name(s), address(es) and signature(s) of person(s) in whose name(s) the Shares required to be delivered upon Settlement are to be registered ("Designated Allottee"):

Name:

Address:

.....

.....

Signature:

2. (A) the relevant number of CVR Shares be issued in the name(s) of the person(s) whose name(s) stand(s) on the Register of Rightsholders as the Rightsholders(s) represented by this Certificate and the certificate for such CVR Shares be delivered to the address of the following participant of the Central Clearing and Settlement System ("CCASS") operated by the Hong Kong Securities Clearing Company Limited:

Participation I.D. of the designated CCASS participant:

CCASS participants contact person:

CCASS participants contact telephone number and fax number:

CCASS participants address for delivery of share certificates:

OR

- (B) I/We hereby request that the certificates for any CVR Shares required to be delivered upon Settlement be despatched (at my/our risk) to the person whose name and address is given below and in the manner specified below:

Name:

Address:.....

.....

.....

Manner of dispatch (if other than by ordinary mail):

3. I/we designate the following account maintained by me/us with a bank in [Hong Kong] for the receipt of payments under Condition 5.5(e):

Bank:

Account Number:

Name of account holder:

4. The Certificates representing the CVRs settled hereby accompany this Settlement Information Notice.

5. I/We hereby represent and warrant to you the following, to the best of our knowledge as at the date hereof: -

- (a) the Settlement by the issue of CVRs [is]/ [is not] prohibited by any law or regulation of any jurisdiction of which [I]/[each of us] or the Designated Allottee or our beneficial owner or the beneficial owner(s) of the CVR Shares is a resident or national, and would not require filing or other action by the Issuer to comply with such laws or regulations;
- (b) the delivery of CVR Shares pursuant to Settlement [will]/[will not] result in a breach of any exchange control, fiscal or other laws or regulations for the time being applicable in any jurisdiction of which [I]/[each of us] or the Designated Allottee or our beneficial owner or the beneficial owner(s) of the CVR Shares is a resident or national.

We hereby acknowledge that you will rely on the foregoing representation and warranty in any Settlement by the issue and allotment of CVR Shares to us in accordance with the Conditions

* (Delete as appropriate)

Name: Date:

Address:

Signature:

Notes:

- (1) This Settlement Information Notice will be void unless the introductory details, Sections 1, 2, 3, 4 and (if applicable) 5 are completed.
- (2) Despatch of share certificates or other securities or property will be made at the risk of the Rightsholder.

SCHEDULE 2

Provisions for meetings of Rightsholder(s)

1. The Issuer at any time shall, upon a request in writing of Rightsholders holding not less than one-tenth in principal amount of the CVRs for the time being outstanding, convene a meeting of Rightsholders. Every such meeting shall be held at such time and place as the Directors of the Issuer may reasonably approve.
2. Subject to paragraph 7 below, at least 14 days' notice (exclusive of the day on which the notice is given and of the day on which the meeting is held) specifying the day, time and place of meeting shall be given to the Rightsholders. The accidental omission to any notice to any of the Rightsholders shall not invalidate the proceedings at any meeting.
3. A person (who may, but need not, be a Rightsholder) nominated in writing by the Issuer shall be entitled to take the chair at every such meeting but if no such nomination is made or if at any meeting the person nominated shall not be present within 15 minutes after the time fixed for the meeting the Rightsholders present shall choose one of their member to be chairman, failing which the Issuer may appoint a chairman. The chairman of an adjourned meeting need not be the same person as was chairman of the original meeting.
4. At any such meeting any two or more persons present in person holding CVRs or being proxies or representatives and holding or representing in the aggregate not less than one-tenth in principal amount of the CVRs for the time being outstanding shall form a quorum for such meeting unless the meeting is in respect of a Special Matter and requires the passing of a Special Resolution, in which case any two or more persons present in person holding CVRs or being proxies or representatives holding or representing in aggregate not less than 75% in principal amount of CVRs for the time being outstanding shall form a quorum for such meeting, provided that in each case if all the CVRs are held by the same holder, a single person present in person holding all the CVRs or being proxy or representative shall form a quorum. No business (other than the choosing of a chairman) shall be transacted at any meeting unless the requisite quorum be present at the commencement of business.
5. If within 30 minutes from the time fixed for any such meeting a quorum is not present the meeting shall, if convened upon the requisition of Rightsholders, be dissolved. In any other case it shall stand adjourned for such period, not being less than 14 days nor more than 42 days, and to such place, as may be decided by the chairman. At such adjourned meeting two or more persons present in person holding CVRs or being proxies or representatives holding or representing in aggregate not less than 5% in principal amount of the CVRs outstanding shall form a quorum and may pass any resolution and decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place had a quorum been present at such meeting unless such adjourned meeting is in respect of a Special Matter and requires the passing of a Special Resolution, in which case any two or more persons present in person holding CVRs or being proxies or representatives holding or representing in aggregate not less than 50% in principal amount of CVRs for the time being outstanding shall form a quorum for such meeting and may pass any resolution and decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place had a quorum been present at such meeting, in each case provided that where all the CVRs are held by the same holder, a single person present in person holding all the CVRs or being proxy or representative) shall form a quorum and may pass any resolution and decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place had a quorum been present at

such meeting.

6. The chairman may with the consent of (and shall if directed by) any meeting adjourn such meeting from time to time from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.
7. At least seven (7) days' notice of any meeting adjourned through want of a quorum shall be given in the same manner as for an original meeting and such notice shall state the quorum required at such adjourned meeting. It shall not, however, otherwise be necessary to give any notice of an adjourned meeting.
8. Every question submitted to a meeting shall be decided in the first instance by a show of hands and in case of equality of votes the chairman shall both on a show of hands and on a poll have a casting vote in addition to the vote or votes (if any) which he may have as a Rightsholders or as a proxy or representative. Where there is a single person forming the quorum, this paragraph shall not apply and the question will be decided by means of a poll.
9. At any meeting, unless (a) a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman, the Issuer or by one or more persons holding one or more CVRs or being proxies or representatives and holding or representing in the aggregate not less than one-fiftieth in principal amount of the CVRs for the time being outstanding, or (b) a single person forms the quorum of such meeting, a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by any particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
10. If at any meeting a poll is so demanded, it shall be taken in such manner and (subject as provided below) either at once or after such an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll shall not prevent the continuation of the meeting for the transaction of any business other than the question on which the poll has been demanded.
11. Any poll demanded at any meeting on the election of a chairman or on any question of adjournment shall be taken at the meeting without adjournment.
12. The Issuer (through its representatives) and financial and legal advisers of the Issuer and the Rightsholders may attend and speak at any meeting of Rightsholders. No one else may attend at any meeting of Rightsholders or join with others in requesting the convening of such a meeting unless he is the holder of a CVR or is a proxy or a representative of such Rightsholder.
13. At any meeting on a show of hands every person who is present in person and who produces a CVR or is a proxy or a representative shall have one vote and on a poll the principal amount of CVRs for which votes are cast either by the Rightsholders in person by its proxy or a representative shall be counted.
14. A Rightsholders is entitled to appoint another person as his proxy to attend and vote instead of him. A proxy need not be a Rightsholders.

15. A meeting of Rightsholders shall, subject to the Conditions and paragraph 16 below, in addition to the powers given above, but without prejudice to any powers conferred on other persons by this Instrument or the Conditions, have power exercisable by Ordinary Resolution:
- (a) to authorise anyone to concur in and do all such things as may be necessary to carry out and give effect to any Ordinary Resolution;
 - (b) to give any authority, discretion or sanction which under this Instrument or the CVRs is required to be given by Ordinary Resolution;
 - (c) to appoint any persons (whether Rightsholders or not) as a committee or committees to represent the interests of the Rightsholders and to confer upon such committee or committee any powers or discretions which the Rightsholders could themselves exercise by Ordinary Resolution; or
 - (d) to assent to any modification, amendment or waiver of any provisions of this Instrument or the Conditions except for any such modification, amendment or waiver in respect of a Special Matter.
16. A meeting of Rightsholders shall, subject to the Conditions, in addition to the powers given above, but without prejudice to any powers conferred on other persons by this Instrument or the Conditions, have power exercisable by Special Resolution in respect of Special Matters, each of the following is a “Special Matter”:
- (a) to authorise anyone to concur in and do all such things as may be necessary to carry out and give effect to any Special Resolution;
 - (b) to give any authority, discretion or sanction which under this Instrument or the CVRs is required to be given by Special Resolution;
 - (c) to sanction any proposal by the Issuer for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Rightsholders against the Issuer or against any of its property;
 - (d) to sanction any scheme or proposal for the exchange, substitution or sale of the CVRs for, or the settlement of the CVRs into, or the cancellation of the CVRs in consideration of, shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any other body corporate formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration of cash;
 - (e) to consent to the Issuer changing its Auditor;
 - (f) to make any modification to, or grant any consent or waiver with respect to, the provisions contained in this Instrument or the CVRs which would have the effect of:
 - (i) changing the Maturity Date or the Settlement Date; or
 - (ii) changing any of clauses 6.1(7), 6.1(10), 6.1(11), 6.1(12), 6.1(13), 7.1(4), 7.1(5), 7.1(7), 7.1(8), 8.1, 8.2, 9.1 or 10.3 of the Instrument or Condition 5, 11 or 12; or
 - (iii) changing the definitions of “Triggering Event”, “Reporting Year”, “Profit before Taxation” or “Non-Cash Costs”; or
 - (iv) modifying the status or settlement terms of the CVRs; or

- (v) reducing or cancelling the principal amount of the CVRs; or
 - (vi) modifying the provisions contained in this Schedule concerning the quorum required at any meeting of Rightsholders or the voting threshold required to pass an Ordinary Resolution or Special Resolution or modifying the approval threshold in any provision that of the Instrument or Conditions that requires approval of Rightsholders by way of an Ordinary Resolution or Special Resolution; or
 - (vii) changing the currency of payment of the CVRs; or
 - (viii) discharging or exonerating any person from any liability in respect of any act or omission for which such person may have become responsible under this Instrument or the Conditions; or
 - (ix) amending any of the provisions in this Schedule 2.
17. An Ordinary Resolution or Special Resolution passed in accordance with this Instrument shall be binding upon all the Rightsholders, regardless of whether or not (a) such resolution was passed at a meeting of Rightsholders or (b) if a meeting is held, all Rightsholders were present at such meeting, and whether or not they vote in favour, and each of the Rightsholders shall be bound to give effect to it accordingly. The passing of any such resolution shall be conclusive evidence that the circumstances of such resolution justify the passing of it.
18. The expression **Ordinary Resolution** means a resolution passed at a meeting of Rightsholders duly convened and held in accordance with these provisions by a majority consisting of not less than half of the votes cast. A written resolution signed by or on behalf of a holder or the holders of not less than 50% of the aggregate principal amount of CVRs outstanding shall be as valid and effective as a duly passed Ordinary Resolution.
19. The expression **Special Resolution** means a resolution passed at a meeting of Rightsholders duly convened and held in accordance with these provisions by Rightsholders who in aggregate hold at least 90% of the outstanding principal amount of CVRs held by all Rightsholders present and voting at the meeting (in person or by proxy). A written resolution signed by or on behalf of a holder or the holders of not less than 90% of the aggregate principal amount of CVRs outstanding shall be as valid and effective as a duly passed Special Resolution.
20. Minutes of all resolutions and proceedings at every such meeting shall be made and entered in the books to be from time to time provided for that purpose by the Issuer and any such minutes, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings transacted or by the chairman of the next succeeding meeting of Rightsholders, shall be conclusive evidence of the matters contained in them and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been so made and signed shall be deemed to have been duly convened and held and all resolutions passed or proceedings transacted at it to have been duly passed and transacted.

21. Subject to all other provisions contained in this Instrument the Issuer may without the consent of the Rightsholders prescribe such further regulations regarding the holding of the meetings of Rightsholders and attendance and voting at them as the Issuer may think reasonable so as to satisfy itself that persons who purport to requisition a meeting in accordance with paragraph 1 are, in fact, Rightsholders, their proxies or representatives.